

Rural Water Districts
K.S.A. 82a-612 through 82a-647
2002

82a-612. Definitions. As used in this act, unless the context clearly requires otherwise:

- (a) "District" means a rural water district organized pursuant to this act;
- (b) "board" means the governing body of a district;
- (c) the terms "board of county commissioners" and "county clerk" shall mean, respectively, the board of county commissioners and county clerk of the county in which the greatest portion of the territory of any existing or proposed rural water district is located;
- (d) "participating member" means an individual, firm, partnership, association or corporation which owns land located within a district and which has subscribed to one or more benefit units of such district;
- (e) "chief engineer" means the chief engineer of the division of water resources, state board of agriculture. (**History:** L. 1957, ch. 540, § 1; June 29.)

82a-613. Rural water districts; organization; duties of board of county commissioners. Subject to the provisions of K.S.A. 19-270, the board of county commissioners of each county in this state shall have power and it shall be their duty, upon a proper petition being presented, to incorporate and organize rural water districts in the manner hereinafter provided. (**History:** L. 1957, ch. 540, § 2; L. 1986, ch. 70, § 44; May 15.)

82a-614. Petition for organization; contents. A petition addressed to the board of county commissioners may be filed with the county clerk, praying for the incorporation of a district. Such petition shall be signed by at least fifty percent (50%) of the owners of land within the proposed district, or signed on behalf of the owners of land within the proposed district when such petition is accompanied by a request for petitioning signed by at least fifty percent (50%) of the owners of land within the proposed district. The number of owners of land in the proposed district shall be determined by an enumeration of said owners of land, taken from the tax rolls of the county in which lands of the proposed district are located, and verified by one of said landowners or the attorney filing same, duly attached to and made a part of said petition: Provided, That for purposes of determining the number of owners of land in the district the tax rolls of the county shall be prima facie evidence of title and of the name and address of the owners of land within said proposed district. The petition shall (1) define by metes and bounds the boundaries of the proposed district and shall state (2) that the lands within such boundaries are without an adequate water supply; (3) that the construction and maintenance of ponds or reservoirs or pipelines or wells or check dams or pumping installation, or any other facility for water storage, transportation or utilization, or that the

construction and maintenance of any combination of said projects is necessary for the improvement of the community, and (4) that such improvement or works shall be conducive to and will promote the public health, convenience and welfare. (**History:** L. 1957, ch. 540, § 3; L. 1963, ch. 512, § 1; L. 1965, ch. 556, § 1; June 30.)

82a-614a. Rural water districts; inclusion of land located in other benefit districts. Any land located within an improvement district created pursuant to K.S.A. 19-2753 et seq., and amendments thereto, or any land located within an industrial district created pursuant to K.S.A. 19-3801 et seq., and amendments thereto, shall not be included within the boundaries of any rural water district created pursuant to K.S.A. 82a-612 et seq., and amendments thereto, unless the governing body of such improvement district or industrial district approves the inclusion thereof.

Nothing in this section shall be construed as providing a procedure for the detachment or deannexation of land located within the boundaries of a rural water district. (**History:** L. 1997, ch. 143, § 8; May 8.)

82a-615. Time for hearing petition; election of director; bylaws; notice of hearing. Whenever a petition as provided in the preceding section is filed with the county clerk, the clerk shall give notice to the county commissioners of the filing of the petition. The county commissioners shall forthwith fix a time and place within 30 days from date of filing of the petition for a hearing of the same. In addition, the county commissioners, with the advice of the petitioners shall forthwith fix a time and place of landowners meeting, immediately after the hearing, for the purpose of electing directors and a time and place within seven days from the date of the hearing for a meeting of the landowners for the purpose of adopting bylaws for the district. The county clerk, at least seven days before the date fixed for the hearing shall mail written notice of the times and places of the hearing and the landowners meetings to each of the petitioners. The county clerk shall transmit to the chief engineer one copy of the petition and notice of the time and place of the hearing thereon. The county clerk shall also cause to be published once each week for two consecutive weeks in the official county newspaper a notice entitled, "Notice of hearing of petition to incorporate and organize a rural water district in the vicinity of _____, _____ county, Kansas," (inserting word or words descriptive of vicinity and name of county). The last publication of the notice shall be not later than seven days before the date set for the hearing. The published notice shall (1) define by metes and bounds the boundaries of the proposed district; (2) state the time and place of hearing; (3) state that all owners of land within such boundaries may appear and be heard; (4) state that a rural water district, if incorporated, shall have no power or authority to levy any taxes whatsoever; (5) state the time and place of the meeting of the landowners for the purpose of electing directors; and (6) state the time and place of the meeting of the landowners for the purpose of adopting bylaws for the district. (**History:** L. 1957, ch. 540, § 4; L. 1963, ch. 512, § 1a; L. 1965, ch. 556, § 2; L. 1981, ch. 173, § 82; July 1.)

82a-616. Consideration of petitions; findings; incorporation, when. (a) At the time and place set for the hearing and consideration of the petition, it shall be the duty of the board of county commissioners to ascertain (1) whether proper notice of the hearing has been given to the persons

and in the manner provided by K.S.A. 82a-615; (2) whether lands within the area defined in the petition are without an adequate water supply; (3) whether the construction and maintenance of ponds, or reservoirs, pipelines or wells or check dams or pumping installation or any other facility for the storage, transportation or utilization of water, of the construction and maintenance of any combination of said proposed projects are necessary for the improvement of the community: Provided, The county commissioners shall make no affirmative finding that any proposed project is necessary if the construction and maintenance of said project would encourage the cultivation of lands which are submarginal and which should be devoted to other uses in the public interest; (4) whether such improvements or works will be conducive to and will tend to promote the public health, convenience and welfare. If upon such consideration it shall be found that such petition is in conformity with the requirements of this act, the board of county commissioners shall thereupon immediately declare either the district within the boundaries defined in the petition or a district contained within such boundaries as described by such board to constitute a quasi-municipal corporation and to be incorporated as a rural water district under the name of "rural water district No. _____, _____ county, Kansas," (inserting number in order of incorporation and name of county) and thereupon shall enter upon its records full minutes of such hearing, together with declaration that thenceforth said district shall constitute a body politic and corporate under said corporate name for the purposes of this act.

(b) Any district heretofore declared and incorporated by the board of county commissioners pursuant to a petition presented under this section, the boundaries of which fall within the boundaries as proposed in said petition but which are not congruent therewith, is hereby ratified and declared to be a lawfully incorporated and existing district. (**History:** L. 1957, ch. 540, § 5; L. 1963, ch. 512, § 2; L. 1965, ch. 556, § 3; L. 1976, ch. 437, § 1; July 1.)

82a-617. Board of directors; qualifications; election; bylaws; adoption. Immediately following the granting of incorporation by the board of county commissioners, and at the time and place set out in the notice of hearing, the owners of land within any such district shall select from their number a board of directors. The number of members on said board, not to exceed nine (9), shall be determined by majority vote of those owners of land present: Provided, Any original director who shall fail to subscribe to one (1) or more benefit units and pay the established unit fee for each unit to which he or she subscribes within thirty (30) days after entry in the minutes of the board of a declaration of availability of such benefit units for subscription, shall forfeit his or her office. Within seven (7) days after the election of the original board, proposed bylaws shall be submitted for adoption at a meeting of owners of land located within the district, notice of which shall be given to each such landowner as provided in K.S.A. 82a-615. Those owners of land located within the district present at such special meeting may adopt and amend any of such proposed bylaws and may propose and adopt additional or other bylaws. Such bylaws may be amended at any annual or special meeting of the participating members of the district. (**History:** L. 1957, ch. 540, § 6; L. 1965, ch. 556, § 4; June 30.)

82a-618. Board; governing body of district; meetings; vacancies; rules and regulations; duties of secretary. The board shall be the governing body of the district and shall meet annually

on the same day the annual meeting of participating members of the district is held pursuant to K.S.A. 82a-626, and such annual meeting of the board of directors shall follow the annual meeting of participating members and at such other times as may be determined by the board or upon call by the chairman or any two (2) members of the board. Vacancies on the board shall be filled for the unexpired term, and until such appointee's successor is elected and has qualified, by appointment by the remaining members of the board. The board shall adopt such rules and regulations in conformity with the provisions of this act and the bylaws of the district as are deemed necessary for the conduct of the business of the district. It shall be the duty of the secretary to cause an entry to be made upon its records showing all of its minutes, decisions and orders made pursuant to the provisions of this act. (**History:** L. 1957, ch. 540, § 7; L. 1963, ch. 512, § 3; April 22.)

82a-619. Powers of rural water districts. Every district incorporated under this act shall have perpetual succession, subject to dissolution or consolidation pursuant to law and shall have the power to:

- (a) Exercise eminent domain within the boundaries of such district;
- (b) sue and be sued;
- (c) contract;
- (d) hold real and personal property acquired by will, gift, purchase, or otherwise, as authorized by law;
- (e) construct, install, maintain and operate such ponds, reservoirs, pipelines, wells, check dams, pumping installations or other facilities for the storage, transportation or utilization of water and such appurtenant structures and equipment necessary to carry out the purposes of its organization;
- (f) contract with cities or counties, or both, to operate and maintain state-permitted wastewater treatment works, systems and other facilities relating to the treatment of wastewater within the boundaries of the district.
- (g) cooperate with and enter into agreements with the secretary of the United States department of agriculture or the secretary's duly authorized representative necessary to carry out the purposes of its organization; and to accept financial or other aid which the secretary of the United States department of agriculture is empowered to give pursuant to 16 U.S.C.A., secs. 590r, 590s, 590x-1, 590x-a and 590x-3, and amendments thereto;
- (h) acquire loans for the financing of up to 95% of the cost of the construction or purchase of any project or projects necessary to carry out the purposes for which such district was organized and to execute notes and mortgages in evidence thereof with interest, or combined interest and mortgage insurance charges, which shall not exceed 13%, except that for purposes of interim

financing, interest or combined interest and mortgage insurance charges shall not exceed 14%. Any district shall have the same power to acquire loans for the refinancing of up to 95% of the original cost of any such project or projects. The balance of the cost of construction shall be acquired by subscription, donation, gift or otherwise than through the medium of loans, except that in the case of cooperative corporations and corporations not for profit being converted to water districts as provided for in K.S.A. 82a-631 to 82a-635, inclusive, and amendments thereto, the district may assume 100% of the indebtedness of the corporation, providing the corporation originally raised at least 10% of the construction cost by means otherwise than through the medium of loans. Any such loan may be secured by any or all of the physical assets owned by the district, including easements and rights-of-way, except that no district organized under this act shall have any power or authority to levy any taxes. **(History:** L. 1957, ch. 540, § 8; L. 1959, ch. 415, § 1; L. 1963, ch. 512, § 4; L. 1974, ch. 449, § 1; L. 1976, ch. 438, § 1; L. 1980, ch. 331, § 4; L. 1981, ch. 396, § 1; L. 1982, ch. 435, § 1; L. 2002, ch. 137, § 2; July 1.)

82a-619a. **(History:** L. 1963, ch. 513, § 2; Repealed, L. 1989, ch.118, § 196; July 1.)

82a-619b. Same; alteration of location of pipelines on easements; costs. (a) Prior to the installation of any water pipeline or appurtenant facility upon any easement or right-of-way granted to any rural water district, the board of directors or its designee shall advise the grantor or his or her local agent of such easement or right-of-way as to the exact location of the proposed installation. If a revision of such location is requested by the grantor, the board or its designee shall offer to negotiate with the grantor for the relocation of the proposed installation to the grantor's satisfaction. Any additional cost incurred by the district as a result of altering the location of the installation shall be borne by the party requesting the alteration.

(b) The terms used in this section shall have the meanings respectively ascribed thereto by K.S.A. 82a-612. **(History:** L. 1976, ch. 436, § 1; July 1.)

82a-620. Same; employment of labor and services. The board of any such district in this state acting in its capacity as the governing body may employ such common and skilled labor, and professional and other services, as may be necessary to the proper performance of such work or improvement as is proposed to be done within any such district, and the maintenance thereof. **(History:** L. 1957, ch. 540, § 9; June 29.)

82a-621. Filings with chief engineer and secretary of district; benefit units; subscription to units; use of proceeds from units; sale of water. Plans, specifications, proposed operating budget, schedules of unit fees and benefit units, rules and regulations, estimates of cost for any authorized proposed improvement shall be filed with the chief engineer and with the secretary of the district. The total benefits of any such improvement shall be divided into a suitable number of benefit units. Each landowner within the district shall subscribe to a number of such units in proportion to the extent he or she desires to participate in the benefits of the improvements. Upon determining a schedule of benefit units and unit fees, the board shall cause a declaration of availability of such units for subscription to be entered in its minutes and any individual who fails

to become a participating member within thirty (30) days thereafter shall not be eligible to hold office as a director, nor shall any individual, firm, partnership, association or corporation which fails to become a participating member within ninety (90) days after such declaration be qualified to participate at any meeting or vote at any election held thereafter unless such individual, firm, partnership, association or corporation shall thereafter become a participating member. As long as the capacity of the district's facilities permits, participating members of the district may subscribe to additional units upon payment of a unit fee for each such unit. Owners of land located within the district who are not participating members may subscribe to such units as the board in its discretion may grant, and upon payment of the unit fee for each such unit shall be entitled to the same rights as original participating members. Proceeds realized from benefit units may be accumulated and used by the district for any lawful purpose, including but not limited to, construction, expansion, and improvement of its water producing, and water transportation facilities. If the capacity of the district's facilities permits, the district may sell water to persons engaged in hauling water and to any municipal, quasi-municipal or nonprofit corporation organized for any purpose consistent with that for which the district was organized.. (**History:** L. 1957, ch. 540, § 10; L. 1959, ch. 415, § 2; L. 1963, ch. 512, § 5; L. 1965, ch. 556, § 5; L. 1974, ch. 450, § 1; L. 1979, ch. 332, § 1; April 26.)

82a-622. Attachment of adjoining lands, when; petition, contentsA petition addressed to the county commissioners may be filed with the county clerk, praying for the attachment, to an existing district, of lands outside the district which can be economically served by the facilities of the district. Said petition for attachment shall be signed by at least fifty percent (50%) of the owners of land within the area or signed on behalf of the owners of land within the area when such petition is accompanied by a request for petitioning signed by at least fifty percent (50%) of the owners of land within the area. The number of owners of land in the area shall be determined by an enumeration of said owners of land, taken from the tax rolls of the county in which lands are located, and verified by one of said landowners or the attorney filing same, duly attached to and made a part of said petition. For purposes of determining the number of owners of land in the area the tax rolls of the county shall be prima facie evidence of title and the name and address of the owners of land within said area. The petition shall (1) define by metes and bounds the boundaries of lands requested to be attached to the district, and shall state (2) the name of the district to which attachment is desired; (3) that such lands are without an adequate water supply; and (4) that attachment to said district will be conducive to and will promote the public health, convenience and welfare. (**History:** L. 1957, ch. 540, § 11; L. 1959, ch. 415, § 3; L. 1963, ch. 512, § 6; L. 1965, ch. 556; L. 1978, ch. 432, § 1; L. 1980, ch. 331, § 1; April 23.)

82a-623. Attachment of adjoining land to water district; procedure; notice and hearing upon petition. Subject to the provisions of K.S.A. 19-270, and amendments thereto, the county clerk shall give notice to the county commissioners of the filing of the petition for attachment. The board of county commissioners shall fix a time and place, within 30 days from the date of the filing of the petition, for a hearing on the same. The county clerk, at least seven days before the date fixed for the hearing, shall send by first class mail to each owner of land within the area sought to be attached a copy of the petition for attachment, and a copy of the notice fixing the time and place of hearing on the petition. The owners of land within the area sought to be attached shall be determined

by an enumeration of landowners taken from the tax rolls of the county in which the land is located. If the petition for attachment is accompanied by a verified statement by one of the owners of land within the area sought to be attached, or the attorney for the petitioner, that the owners of all of the land within the area sought to be attached have signed the petition for attachment, a copy of the petition for attachment shall not be sent to the owners of land sought to be attached. The clerk shall send by first class mail a copy of the petition for attachment and a copy of the notice fixing the time and place of hearing on the petition to the office of the water district to which attachment is sought. The clerk also shall transmit to the chief engineer a copy of the petition for attachment and a copy of the notice fixing the time and place of hearing thereon. (**History:** L. 1957, ch. 540, § 12; L. 1965, ch. 556, § 7; L. 1980, ch. 331, § 2; L. 1986, ch. 70, § 45; L. 1997, ch. 143, § 2; May 8.)

82a-624. Findings of board; new boundaries; subscription to benefit units by landowners of attached territory. (a) At the time and place set for the hearing and consideration of the petition, the board of county commissioners shall ascertain (1) whether proper notice has been given as required by K.S.A. 82a-623, and (2) whether the statements contained in the petition are true. If the statements contained in the petition are true and if a majority of the members of the board of the district to which attachment is desired do not object, the board of county commissioners shall enter into its minutes of such findings and shall set forth in said minutes a metes and bounds description of the new territory attached to said district. Thereafter owners of land located within the attached territory shall be entitled to subscribe to such benefit units upon such terms and conditions as the board in its discretion may provide. Any owner of land located within any territory attached to a district as provided by this act, who shall subscribe to one or more benefit units and comply with terms and conditions provided by the board, shall be entitled to the same rights as participating members are entitled to.

(b) When the petition has been signed by seventy-five percent (75%) of the landowners, the board of county commissioners shall ascertain whether the statements contained in the petition are true. If the statements contained in the petition are true and if a majority of the members of the board of the district to which attachment is desired do not object, the board of county commissioners shall enter into its minutes of such findings and shall set forth in said minutes a metes and bounds description of the new territory attached to said district. (**History:** L. 1957, ch. 540, § 13; L. 1965, ch. 556, § 8; L. 1980, ch. 331, § 3; April 23.)

82a-625. Construction of works; issuance of revenue bonds, conditions. The board of directors of any district as provided shall have power to cause to be constructed within such district such works as are authorized by this act and to issue revenue bonds therefor, which shall be exempt from taxation. Such bonds shall be self-liquidating out of the revenue to be derived by the district for its services and facilities, shall bear interest at not more than the maximum rate of interest prescribed by K.S.A. 10-1009 and shall be issued under such provisions and conditions as the board shall determine. (**History:** L. 1957, ch. 540, § 14; L. 1970, ch. 64, § 98; L. 1979, ch. 332, § 2; April 26.)

82a-626. Terms of members of board; annual meeting, notice; vote by participating members. (a) The term of office of every member elected to an original board shall be until the date of the annual meeting of the participating members of either the first, second or third year following the year of the incorporation of the district and until their successors are elected and have qualified, and as nearly as possible the terms of an equal number of directors on any such board shall expire on each of such dates.

(b) Except as provided by the bylaws of the district pursuant to section 3, and amendments thereto, at the annual meeting of each year after the year of the election of the original board members, elections shall be held to elect directors to fill any position on the board, the term of office of which has expired, and any director so elected shall hold office for a term of three years and until such director's successor is elected and has qualified. For the purpose of election of board members and for such other purposes as the bylaws may prescribe, annual meetings of participating members shall be held by each district between January 1 and April 1 of each year following the year of incorporation of such district. The board of directors shall cause notice of the time and place of each annual meeting and the purpose thereof to be mailed to each of its participating members or shall cause such notice to be published in a newspaper of general circulation within the district. Every such notice shall be mailed or published not less than 10 nor more than 30 days prior to any such meeting. Each participating member shall be entitled to a single vote, regardless of the number of benefit units to which such member has subscribed. (**History:** L. 1957, ch. 540, § 15; L. 1959, ch. 415, § 4; L. 1987, ch. 401, §1; L. 2002, ch. 137, § 4; July 1.)

82a-627. Officers of board; election; term. The board of directors shall annually elect a chairman, vice-chairman, secretary and treasurer for a term of one (1) year and until a successor is elected and has qualified. (**History:** L. 1957, ch. 540, § 16; June 29.)

82a-628. Duties of chairman of board; compensation of chairman and other persons; budget, audit and report. It shall be the duty of the chairman of the board of directors to keep in repair such works as are constructed by the district as authorized in this act and to operate such works, all as directed by said board. The chairman and all persons who may perform any service or labor as provided herein shall be paid such just and reasonable compensation as may be allowed by the board of directors and said board shall annually prepare an estimated budget for the coming year, adjust water rates, if necessary to produce sufficient revenue required by such budget, shall cause an annual audit of the district's records and accounts to be made, and shall make a report on said matters at each annual meeting. (**History:** L. 1957, ch. 540, § 17; June 29.)

82a-629. Dissolution of district; disposition of property and apportionment of proceeds. Whenever a petition signed by 3/4 of the subscribers and benefit unit owners in any district organized under provisions of K.S.A. 82a-612 et seq., and amendments thereto, is presented to the board of county commissioners stating that all of the district's debts and obligations have been fully paid; that the board of directors has not held a meeting for more than six months prior to the date of signing the petition; and that the district is not functioning, and shall continue to be inoperative, the board of county commissioners shall make findings thereon. If the board of county commissioners

finds the allegations in the petition to be true, the board shall provide for the disposition of any property owned by the district and for the apportionment of the proceeds thereof together with any other moneys belonging to the district to an adjoining rural water district or to any other political subdivision of the state. No money, property or the proceeds thereof shall be distributed to any private interests. The board of county commissioners shall issue a certificate stating that the allegations in the petition are true and declaring the district dissolved. The board of county commissioners shall make full minutes of the hearing in its journal and deliver such certificate to the secretary of the district. The secretary of the district, within 30 days thereafter, shall deliver all records, maps, plans and files to the county clerk, and thereupon the district shall be dissolved. **(History:** L. 1957, ch. 540, § 18; L. 1985, ch. 337, § 1; L. 1991, ch. 291, § 1; March 21.)

82a-630. **(History:** L. 1959, ch. 415, § 5; L. 1977, ch. 355, § 1; Repealed, L. 2001, ch. 80, § 2; April 12.)

82a-630a. (Transferred to 82a-647.)

82a-631. Conversion of certain cooperative and nonprofit corporations into rural water districts; petition; requirements. Any cooperative or nonprofit corporation organized prior to July 1, 1957, for purposes authorized by sections 82a-612 to 82a-629, both sections inclusive, of the General Statutes Supplement of 1957, may, by a vote of a majority of the members present at a regular meeting, or at a meeting duly called for that purpose, and provided a quorum is present, elect to petition the county commissioners to incorporate the lands within its corporate boundaries into a rural water district. Said petition shall: (1) Be accompanied by a map showing the corporate boundaries of the area served, a roster of the stockholders, complete with addresses; (2) state the name of the corporation desiring to be incorporated as a rural water district; (3) state that prior to the construction of water facilities by the corporation, the area was without an adequate water supply; (4) state that the holders of notes, bonds, or other instruments evidencing indebtedness of the corporation are willing to have the new district, if established, assume the indebtedness and obligations of the corporation; and (5) be signed by the president and secretary of the corporation for its members. **(History:** L. 1959, ch. 415, § 6; April 4.)

82a-632. Same; notice and hearing. Notice of the filing of a petition for conversion to a water district, fixing time and place of the hearing, shall be given in the same manner as prescribed in K.S.A. 82a-626, insofar as same can be made applicable, except that all members whose names are shown on the roster of stockholders submitted with the petition for conversion shall be considered petitioners, and shall be given notice of such filing and of the time and place of the hearing by registered or certified mail. **(History:** L. 1959, ch. 415, § 7; April 4.)

82a-633. Same; duties of county commissioners; declaration. At the time and place set for the hearing and consideration of the petition, the board of county commissioners shall ascertain: (1) Whether proper notice has been given as provided for in K.S.A. 82a-632; and (2) whether the statements contained in the petition are true. If determined in the affirmative, the said board of county commissioners shall enter into its minutes such findings, shall cause the map accompanying

the petition to be filed of record, and shall declare the land shown within the boundaries on said map to constitute a quasi-municipal corporation, and to be incorporated into a rural water district under the name of "Rural Water District No. _____, _____ county, Kansas," and thereupon shall enter upon its records full minutes of the hearing, together with the declaration that said district shall constitute a body politic and corporate under said corporate name for the purposes of this act. **(History:** L. 1959, ch. 415, § 8; L. 1963, ch. 512, § 7; April 22.)

82a-634. Same; holders of stock or certificates to hold benefit units. Holders of shares of stock and/or membership certificates in the corporation or cooperative electing to convert to a rural water district shall hold benefit units in the water district established in the same number as they were entitled to water services in the previously existing corporation or cooperative. **(History:** L. 1959, ch. 415, § 9; April 4.)

82a-635. Same; dissolution of corporation or cooperative, when. When the rural water district has been established pursuant to the provisions of K.S.A. 82a-631 to 82a-634, both sections inclusive, hereof, and the assets and liabilities of the corporation or cooperative have been transferred to it, the corporation or cooperative shall thereupon be dissolved. **(History:** L. 1959, ch. 415, § 10; April 4.)

82a-636. Same; conversion provisions (82a-631 to 82a-635) supplemental to 82a-612 to 82a-629. The provisions of K.S.A. 82a-631 to 82a-635, both sections inclusive, shall be supplemental to the provisions of K.S.A. 82a-612 to 82a-629, both sections inclusive, and acts amendatory thereof or supplemental thereto. **(History:** L. 1959, ch. 415, § 11; July 4.)

82a-637. Rural water districts; transfer of assets, properties, funds and records of certain districts to city or board of public utilities of city; agreements between district and city or board of utilities; outstanding indebtedness and obligations; water service and rates; approval of U.S. secretary of agriculture. Whenever a rural water district is created under the provisions of K.S.A. 82a-612 et seq., and acts amendatory thereof, and all or part of such district lies within a three mile radius of a city of the first class, and such district does not qualify for additional loans in order to increase its facilities sufficiently to enable it to provide adequate water service for development of the area within such district, then said district may upon a petition signed by two-thirds of the participating members of the district, as determined by an enumeration taken and verified for this purpose by a qualified elector residing within the district or, upon a vote, in person or by proxy, of more than one-half of the participating members of said district at a special meeting called for such purpose by the board of directors of the district, approve the transfer of all physical assets and properties, funds and records of said district to the city lying within the prescribed radius, or to the board of public utilities of such city, upon agreement executed between said city or board of public utilities, as the case may be, and the governing body of the water district for payment or satisfaction of all outstanding indebtedness and obligations of said rural water district, and further agreement for the payment of not less than 20% of the determined amount of the outstanding debts and obligations of the district at the time of the execution of the agreement; and such agreement shall

also provide that water services to the water users in the water district shall be at rates which are at not more than the prevailing rates at the time of such agreement.

Such agreement and transfer of assets and properties of the district shall be subject to the approval of the secretary of agriculture of the United States or his or her duly authorized representative; and no transfer of assets or properties shall be made until such approval has been received.

At any time after the participating members of the district have approved such transfer of assets and properties as herein provided for by petition or election, and after an agreement is executed as authorized herein, and upon payment of the twenty percent (20%) of the outstanding indebtedness and debts as required, the board of directors of the water district shall transfer the physical assets and properties to the municipality or board of public utilities, together with all records, maps, plans and files in connection therewith and thereafter the governing body of the city or the board of public utilities, as the case may be, shall operate such properties as a part of the municipal functions of the city, subject to the terms of the agreement entered into. **(History: L. 1969, ch. 107, § 1; April 15.)**

82a-639. Consolidation of rural water districts; duties of board of county commissioners. Subject to the provisions of K.S.A. 19-270, any two or more rural water districts organized pursuant to K.S.A. 82a-612 *et seq.*, and amendments thereto, may be consolidated by order of the board of county commissioners of the county in which the district with the largest number of participating members was originally incorporated and organized. **(History: L. 1976, ch. 438, § 2; L. 1986, ch. 70, § 46; May 15.)**

82a-640. Same; meeting prior to consolidation; notice; approval of consolidation; petition to county, contents. Prior to the formation of a consolidated rural water district, a special meeting concerning such consolidation shall be held in each district to be consolidated. All members of each such district shall be sent notice by first-class mail of the time, place and purpose of such special meeting at least ten (10) days prior thereto. A majority of the members attending such special meeting of each district to be consolidated shall first authorize the consolidation of such districts and approve the assumption and payment of all liabilities and obligations of the districts to be consolidated by the consolidated district. A petition addressed to the board of county commissioners of the county with the largest number of participating members, executed by the chairman and secretary of each district seeking consolidation, and filed with the county clerk of such county shall: (1) Set forth the names of each district seeking consolidation; (2) be accompanied by a map showing the boundaries of such districts; (3) state that the consolidation has been approved by a majority of the members attending the special meeting of each district seeking consolidation; (4) state whether or not the boards of the districts proposed to be consolidated have agreed to assume all existing liabilities of such districts as provided in K.S.A. 82a-643, and whether such agreement has been approved by the holders of all outstanding revenue bonds and promissory notes; and (5) state that the consolidated district will provide adequate water service within the area of the consolidated district. **(History: L. 1976, ch. 438, § 3; L. 1979, ch. 332, § 4; April 26.)**

82a-641. Same; hearing on petition; notice; publication. Whenever a petition is filed with the county clerk of the county having the largest number of participating members, as provided in K.S.A. 82a-640, such county clerk shall give notice to the board of county commissioners of such county of the filing and pendency of such petition. The board of county commissioners shall forthwith fix a place and time within 30 days from the date of the filing of the petition for a hearing thereon. The county clerk shall, at least 10 days before the date fixed for the hearing, give or send by registered or certified mail, written notice of the hearing to the chairperson of each district seeking consolidation, and shall transmit one copy of the petition and notice of the hearing to the chief engineer of the division of water resources. The county clerk shall also cause a notice of the hearing to be published once each week for two consecutive weeks in the official county newspaper. The last publication shall be not later than 10 days before the date set for the hearing. Such published notice shall: (1) Identify by name the districts seeking consolidation; (2) state the time and place of the hearing; (3) state that all interested persons may appear and be heard; and (4) state that a consolidated water district shall have no power or authority to levy any taxes whatsoever. **(History:** L. 1976, ch. 438, § 4; L. 1981, ch. 173, § 83; July 1.)

82a-642. Same; findings of board of county commissioners; consolidation order. If, at the time and place set for the hearing, the board of county commissioners shall find and determine that: (1) Notice of the hearing has been given as required by K.S.A. 82a-641; (2) the proposed consolidation has been approved by a majority of the members attending the special meeting of each district seeking consolidation as provided by K.S.A. 82a-640; (3) that the statements contained in the petition for consolidation are true, the board of county commissioners shall thereupon enter an order declaring the area within the boundaries of the rural water districts seeking consolidation to be incorporated as a consolidated rural water district under the name of "consolidated rural water district no. _____, _____ county, Kansas" (inserting number in order of consolidation and name of county). The county clerk shall thereupon send a copy of such order to the chief engineer of the division of water resources and the secretary of state. **(History:** L. 1976, ch. 438, § 5; July 1.)

82a-643. Same; administration of property; powers of consolidated district; payment of revenue bonds, notes or other liabilities. At the time of the effective date of the consolidation, all the property of the original districts shall be combined and administered as one unit, and the consolidated district shall thereupon be invested with all the property benefits, franchises and privileges of the districts consolidated by the order and shall have all the powers of rural water districts. All revenue bonds, promissory notes or other liabilities theretofore incurred by any of the districts consolidated by the order shall be paid in accordance with the terms thereof only from revenues derived from the services and facilities of the original district unless the same have been approved for payment by the consolidated district in accordance with K.S.A. 82a-640. **(History:** L. 1976, ch. 438, § 6; July 1.)

82a-644. Same; election of officers of consolidated district; adoption of bylaws. Immediately following entry of the order of consolidation by the board of county commissioners, the members of the boards of the former rural water districts which were consolidated shall meet and

elect from among themselves a chairman, vice-chairman, secretary and treasurer. The offices of secretary and treasurer may be held by one person. No more than two (2) of such offices may be held by persons from one (1) of such former rural water districts. The members of such boards shall adopt the bylaws of one of the former districts with such changes and modifications as the directors shall deem necessary. The members of such boards of directors shall continue to serve as members of the board of directors of the consolidated district until the next annual meeting of the consolidated district as fixed in the bylaws, at which time a board of directors, not to exceed nine (9) in number, shall be elected in the same manner prescribed for the election of an original board under K.S.A. 82a-617. **(History: L. 1976, ch. 438, § 7; July 1.)**

82a-645. Same; participating members of consolidated district. Participating members of each district forming a consolidated district shall be deemed to be participating members of the consolidated district. **(History: L. 1976, ch. 438, § 8; July 1.)**

82a-646. Release of lands from district. (a) Terms used in this section shall have the meanings provided by K.S.A. 81a-612, and amendments thereto.

(b) If certain lands included within a district cannot be economically or adequately served by the facilities of the district, the owners of such lands may petition the board of directors of the district to release those lands from the district. The petition shall describe the lands requested to be released and shall be signed by at least 75% of the total number of the owners of the lands requested to be released. The board of directors may prescribe a fee to be collected from the petitioners for the purpose of offsetting costs reasonably expected to be incurred by the district in hearing the request for release. The petition for release, together with a verified list of the names and addresses of all owners of the land requested to be released, and the prescribed fee, shall be filed with the secretary of the district.

(c) If the board of directors of the district finds the petition to be in proper form, the board shall conduct a hearing on the petition for release. Notice of the time and place of the hearing shall be mailed to all owners of land requested to be released not later than 10 days before the hearing. The hearing may be continued from time to time without further notice to landowners. In considering the petition for release, the board shall consider whether the lands requested to be released cannot be economically or adequately served by the facilities of the district and whether the release would be in the best interests of the landowners and the district, based on the following factors:

(1) Whether the petitioners for release of lands have applied for one or more benefit units to serve the lands requested to be released, which applications have been denied;

(2) the length of time before the board of directors reasonably expect to make water service available to the lands requested to be released;

(3) whether water service is available from another source if the lands are released from the district;

(4) if water service is available from the district to the lands requested to be released, the relative cost of obtaining such water service, as determined by the district, compared to the additional value of the lands after water service is made available;

(5) if water service is available from the district, the cost of obtaining such water service, as determined by the district, compared to the cost of obtaining water from another source;

(6) whether any applicable law will prevent any other water suppliers from serving the lands requested to be released; and

(7) whether the district's interest in maintaining the integrity of its territory is outweighed by the landowners' need to obtain a source of supply of water to the lands requested to be released.

(d) The board may approve the release of all or part of the lands requested to be released or may deny the request. The burden of proof shall be on the petitioners for release. The board of directors shall make a determination on the petition for release within 120 days after its receipt, shall record its findings in the minutes of the district and shall mail a copy of such findings to each petitioner within seven days.

(e) Any owner of land requested to be released from the district who is dissatisfied with the determination of the board of directors on the petition for release may bring an action in the district court of the county in which the district is located to determine if the board of directors of the district abused its discretion in making such determination. Such appeal shall be filed within 30 days after the final decision of the board.

(f) If the board of directors of the district approves the petition, or if the district court on appeal determines that the board abused its discretion in denying release, a copy of the board's action approving the release or of the district court's order on appeal, as the case may be, shall be transmitted to the chief engineer and to the county clerk, who shall note the change of such district's boundaries. (**History:** L. 2001, ch. 80, § 1; April 12.)

82a-647. Release of lands from district; alternative procedure. (a) As an alternative to the procedure contained in K.S.A. 82a-630, and amendments thereto, the owners of land located in a rural water district who desire for their land to be released from such district and attached to a different district may proceed in accordance with this section. A petition to release such land shall be filed with the board of directors of the district in which such land is located. The petition shall:

(1) Describe the land sought to be released;

(2) state the name and number of the rural water district to which the owners seek to have such land attached; and

(3) state that such release is sought conditioned upon the attachment thereof by such other rural water district.

Such petition shall be signed by at least 75% of the owners of the land affected. The ownership shall be determined by an enumeration of landowners taken from the tax rolls of the county in which the land is located.

Within 30 days of receipt of such petition the board of directors of the district shall call and hold a hearing on the advisability of granting such petition. The board shall give notice of such hearing in the same manner provided by K.S.A. 82a-640, and amendments thereto. On the date of such hearing, the board shall approve or disapprove such release based on its determination of the best interests of the district and the petitioning landowners.

(b) Following approval of such petition for release, a petition for attachment of such lands shall be filed with the board of directors of the district to which such land is sought to be attached. The petition shall:

(1) Describe the land sought to be attached;

(2) request that the owners thereof seek to have such land attached to the district; and

(3) have attached to it a copy of the approval of release of such land by the board of directors of the district in which such land was conditionally released. Such petition shall be signed by at least 75% of the owners of the land affected. Ownership shall be determined by an enumeration of landowners taken from the tax rolls of the county in which the land is located.

Within 30 days of receipt of such petition the board of directors of the district shall call and hold a hearing on the advisability of granting such petition. Notice of such hearing shall be provided in the manner provided by K.S.A. 82a-640, and amendments thereto, by the board of directors. On the date of such hearing, the board shall approve or disapprove such attachment based on its determination of the best interests of the district and the petitioning landowners. If the board does not approve of such attachment, it shall notify the district from which release had been sought, which district shall then declare such release to be void.

(c) If the district to which release is sought approves of the release of such lands and the district to which attachment is sought approves of attachment of such lands, copies of the approval of such action by the boards of directors of each district shall be transmitted to the chief engineer. Copies also shall be filed with the county clerk, who shall note the change of such district's boundaries.

(d) Nothing in this section shall be construed as limiting landowners from using the procedures for attachment or release of property otherwise provided in K.S.A. 82a-622 et seq., and amendments thereto. (**History:** L. 1999, ch. 161, § 1; July 1.)